

REMARKS

In response to the Non-Final Office Action mailed January 30, 2009 (hereafter "Office Action"), claims 1, 5, 9, 10, 11, 13 and 17 have been amended. Claims 4, 6, 16 and 18 have been cancelled without prejudice or disclaimer, and claims 21-24 are newly added. Support for the instant amendments and new claims is provided throughout the as-filed application. Thus, no new matter has been added. Accordingly, claims 1, 3-5, 7-15, 17, and 19-24 are pending.

In view of the following comments, allowance of all the claims pending in the application is respectfully requested.

Rejections Under 35 U.S.C. §103(a)

I. Claims 1, 3-6, 9-11, 13-18 and 20 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,241,580 to Fischer ("Fisher") in view of U.S. Patent No. 6,811,338 to Manske Jr, *et al.* ("Manske"). Applicant traverses.

Applicant submits that the cited portions of Fisher fail to teach or render obvious a foldable sachet that, when the sachet is in a closed condition, a first portion of the polishing layer faces a second portion of the polishing layer, and the protective layer conceals the polishing layer, and that when the sachet is in an opened condition, the protective layer is folded back such that the first and second portions of the polishing layer are exposed for applying the polishing product to the shoe, as claim 9 recites.

Figure 5 of Fisher shows a polishing applying and buffing mitt having a first layer (42) covering a polish (46) and a second layer (48) covering a surface of a buffing mitt (50). In use, the first layer (42) is removed to expose the polish (46) and then after applying polish to an object, the second layer (48) having the polish layer (46) is removed and the mitt is used for buffing the object. [See Fisher, col. 3, line 57 – col. 4, line 3]. However, the cited portions of Fisher make no mention or suggestion of a *foldable sachet*, much less that the second layer (48) which has the polish (46), includes a first portion and a second portion which face each other, in a closed condition and are both exposed in an opened condition by folding back a protective layer.

Similarly, Applicant submits that the cited portions of Fisher fail to teach or render obvious a polishing implement for polishing a shoe, comprising, *inter alia*, a *foldable sachet* that, when the sachet is in a closed condition, a first portion of the second polishing layer faces a second portion of the second polishing layer, and the protective layer conceals the second polishing layer, and that when the sachet is in an opened condition, the protective layer is folded back such that the sachet extends about an edge of the structure and a portion thereof attaches to a top side of the structure, and the first and second portions of the second polishing layer are exposed for applying the polishing product to the shoe, as claims 1 and 13 recite.

As discussed above, the cited portions of Fisher make no mention or suggestion a *foldable sachet*, much less that the second layer (48) which has the polish (46), includes a first portion and a second portion which face each other in a closed condition and are both exposed in an opened condition. Moreover, the cited portions of Fisher are silent regarding folding back and attaching any portion of either of the first and second layers (42, 48) to an opposite side of the mitt.

The Office Action further *acknowledges* that Fisher does not disclose a fiber material, but alleges that Manske does. Even so, the cited portions of Fisher do not overcome the deficiencies of Fisher.

For example, the cited portions of Manske make no mention or suggestion of a *foldable sachet* that, when the sachet is in a closed condition, a first portion of the polishing layer faces a second portion of the polishing layer, and the protective layer conceals the polishing layer, and that when the sachet is in an opened condition, the protective layer is folded back such that the first and second portions of the polishing layer are exposed for applying the polishing product to the shoe, as recited in claim 9, much less the arrangement of a sachet on a substrate, as recited in claims 1 and 13.

By contrast, according to Applicant's claimed invention, by providing a *foldable sachet*, the polishing area of the sachet can be enlarged when unfolded. Indeed, both the first and second portions of the polishing layer, which face each other in the closed condition, are exposed in the opened condition by folding back the protective layer. Moreover, when the sachet is provided on a substrate (glove), as claims 1 and 13

recite, a wearer's finger tips can be used to exert pressure, along the edge of the substrate (glove), in order to have a more optimal polishing effect.

For *at least* the foregoing reasons, the cited portions of Fisher and Manske, either alone or in combination, do not disclose or otherwise render obvious each and every feature of claims 1, 9 and 13. Claims 3, 5, 10, 11, 14, 15, 17, 19 and 20 depend from claims 1, 9 and 13, and therefore are patentable over the cited portions of the relied upon references for the reasons noted above with respect to claims 1, 9 and 13, as well as for the features they recite individually. Claims 4, 6, 16 and 18 have been cancelled and therefore the rejection thereof is now moot. Accordingly, the rejections of claims 1, 3, 5, 9-11, 13-15, 17 and 20 under 35 U.S.C. §103(a) over Fisher in view of Manske should be withdrawn and the claims be allowed.

II. Claims 7, 12 and 19 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fisher and further in view of U.S. Patent No. 6,557,178 to Hoover ("Hoover"). Applicant traverses.

As discussed above, the cited portions of Fisher as modified by Manske does not teach or disclose each and every feature of claims 1, 9 and 13.

Further even assuming, *arguendo*, that it was proper to combine the teachings of Hoover with the teachings of Fisher (which Applicant does not concede)¹, the cited portions of Hoover do not overcome the deficiencies of the cited portions of Fisher.

For example, the cited portions of Hoover make no mention or suggestion of a *foldable sachet* that when the sachet is in a closed condition, a first portion of the polishing layer faces a second portion of the polishing layer, and the protective layer conceals the polishing layer, and that when the sachet is in an opened condition, the protective layer is folded back such that the first and second portions of the polishing layer are exposed for applying the polishing product to the shoe, as recited in claim 9, much less the arrangement of a sachet on a substrate, as recited in claims 1 and 13.

¹ As previously pointed out, Applicant submits that Hoover's disclosure of a *sanding* glove is wholly inappropriate for polishing shoes. [See, e.g., Pre-Appeal Request for Review filed November 20, 2008, page 4].

For *at least* the foregoing reasons, the cited portions of Fisher and Hoover, either alone or in combination, do not disclose or otherwise render obvious each and every claim feature of claims 1, 9 and 13. Claims 7, 12 and 19 depend from claims 1, 9 and 13, and therefore are patentable over the cited portions of the relied upon references for the reasons noted above with respect to claims 1, 9 and 13, as well as for the features they recite individually. Accordingly, the rejection of claims 7, 12 and 19 under 35 U.S.C. §103(a) over Fisher in view of Hoover should be withdrawn and the claims be allowed.

New Claims

Claims 21-24 depend from claims 1, 9 and 13, and therefore are patentable over the cited portions of the relied upon references for the reasons noted above with respect to claims 1, 9 and 13, as well as for the features they recite individually.

CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.


If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Please charge any fees associated with the submission of this paper to **Deposit Account Number 033975**. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account

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